

REMARKS

Summary of the Amendment

Upon entry of the instant Amendment, claim 23 will have been canceled and claims 1, 22, 24 and 33 will have been amended. Accordingly, claims 1-5, 7-22, 24-27 and 29-70 will be pending, claims 48-67 and 70 are withdrawn from examination by the Examiner on the basis of a restriction requirement, and examined claims 1, 22 and 68 are in independent form.

Summary of the Official Action

In the instant Office Action, the Examiner again indicated that claims 48-67 and 70 were withdrawn from examination because they are directed to a non-elected invention. The Examiner also rejected claims 1-5, 7-27, 29-47, 68 and 69 over the art of record. By the present remarks, Applicant submits that the rejections are improper, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Present Amendment is proper for entry

Applicant submits that the instant amendment is proper for entry after final rejection. In particular, Applicant notes that no question of new matter nor are any new issues raised in entering the instant amendment of the claims and that no new search would be required.

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Moreover, Applicant submits that the instant amendment places the application in condition for allowance, or at least in better form for appeal.

Accordingly, Applicant requests that the Examiner enter the instant amendment, consider the merits of the same, and indicate the allowability of the present application and each of the pending claims.

Restriction Requirement

Claims 1-47 and 68-69 were elected with traverse. Moreover, claims 48-67 and 70 were again withdrawn by the Examiner as directed to the non-elected invention. Moreover, the Examiner has made the restriction requirement final in the previous Office Action. However, at this time, Applicants are not canceling the non-elected claims pending allowance of the elected claims.

Traversal of Rejections Under 35 U.S.C. § 102(b)

Over Kamps

Claims 1-5, 7-12 and 16 were rejected as being anticipated by WO 96/35018 to KAMPS.

The Examiner asserted that KAMPS, and in particular Fig. 5 thereof, discloses all of the features of these claims including, among other things, a forming roll 15 and two belts

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which separate from each other. Reconsideration of the above-noted rejection is respectfully requested.

Applicant respectfully submits that this document fails to disclose, or even suggest, inter alia, a forming element comprising *a forming roll*, an inner dewatering belt, and an outer dewatering belt, *at least one of the inner and outer belts being a dewatering belt having zonally variable wire permeability*, the inner and outer belts *being guided by the forming roll* and thereafter separating from one another in the area of a separation point, and at least one suction element being positioned *at least one of within the forming roll and adjacent the area of the separation point*, wherein the inner and outer belts separate from each other *immediately following* the forming roll, as recited in amended independent claim 1.

Applicant notes that the suction device 30 in Fig. 5 is clearly located far downstream from both forming roll 15 and the separation point. Applicant also emphasizes that Fig. 5 of KAMPS shows an embodiment in which a suction device 30 is located far away from where the belts 12 and 13 separate, i.e., it is not positioned *adjacent the area of the separation point*. It is also clear that the suction device 30 is not arranged *within the forming roll* 15, as alternatively recited in independent claim 1.

Moreover, while Applicant notes that Fig. 5 (and page 9, lines 27-35) of KAMPS apparently discloses the use of a decorative forming fabric 13 as an outer wire on a crescent former, it is clear that, unlike the invention, there is no disclosure or suggestion in KAMPS

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with regard to using *a dewatering belt having zonally variable wire permeability* in order to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Applicant notes that, for an anticipation rejection under 35 U.S.C. § 102 to be proper, each element of the claim in question must be disclosed in a single document, and if the document relied upon does not do so, then the rejection must be withdrawn. Moreover, an anticipation rejection cannot be based upon the combination of teachings of different embodiments in a single document.

Because this document fails to disclose at least the above mentioned features as recited in at least independent claim 1, as now amended, Applicant submits that this document does not disclose all the claimed features recited in at least amended independent claim 1.

Furthermore, Applicant submits that claims 2-5, 7-12 and 16 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper reading of KAMPS discloses or even suggests: that at least the outer belt is a dewatering wire having zonally variable wire permeability as recited in claim 2; that the tissue web is separated from the outer belt in the area of the separation point as recited in claim 3; that the tissue web is retained by the inner wire after being separated from the outer belt as recited in claim 4; that at least one of the inner and outer belts comprises a

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circulating continuous dewatering belt as recited in claim 5; that each of the inner and outer belts is a circulating continuous dewatering wire having zonally variable wire permeability as recited in claim 7; that the inner belt contacts the forming element and the outer belt is guided with the inner belt around the forming element such that the outer belt does not come into contact with the forming element as recited in claim 8; that the forming element comprises the at least one suction element as recited in claim 9; that the forming element comprises a suction zone as recited in claim 10; that the at least one suction element is positioned adjacent the area of the separation point as recited in claim 11; that the at least one suction element is provided inside a loop of the inner belt as recited in claim 12; and that the at least one suction element is arranged at least essentially over an entire width of one of the inner belt and the tissue web as recited in claim 16.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection and further requests that the above noted claims be indicated as allowable.

Over Odell

Claim 1 was also rejected as being anticipated by US patent 5,536,372 to ODELL et al.

The Examiner asserted that ODELL, and in particular figure 5 thereof, discloses all of the features of this claim including, among other things, a forming roll 15A, two belts 10

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and 20 which separate from each other and suction devices 85a and 85b, although the Examiner also asserted in the Interview of January 23, 2003 that suction devices 79 and 70A were also disclosed. Reconsideration of the above-noted rejection is respectfully requested.

Applicant respectfully submits that this document fails to disclose, or even suggest, inter alia, a forming element comprising *a forming roll*, an inner dewatering belt, and an outer dewatering belt, *at least one of the inner and outer belts being a dewatering belt having zonally variable wire permeability*, the inner and outer belts *being guided by the forming roll* and thereafter separating from one another in the area of a separation point, and at least one suction element being positioned *at least one of within the forming roll and adjacent the area of the separation point*, wherein the inner and outer belts separate from each other *immediately following* the forming roll, as recited in amended independent claim 1.

Applicant has maintained all along that Fig. 5 of ODELL merely teaches to locate the suction device 79 or 70A at a location before where the belts separate after forming roll 15A. On the other hand, claim 1 specifically recites that the at least one suction element is positioned at least one of *within the forming roll and adjacent the area of the separation point*, in combination with *the inner and outer belts separating from each other immediately following the forming roll*. Indeed, the Examiner acknowledged that the suction devices 79 and 70A were positioned before forming roll 15A and not immediately following the forming roll 15A. Applicant is at a loss to understand how the Examiner can continue to disregard

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the fact that the suction devices 79 and 70A in Fig. 5 are clearly located far upstream from both forming roll 15A and the separation point. It is simply improper to characterize the suction devices 79 and 70A as being positioned both adjacent to the area of the separation point and immediately following the forming roll 15A, when this is clearly not the case.

Moreover, in addition to the fact that this document does not appear to disclose making a tissue web, Applicant notes that this document also appears to lack any disclosure with regard to *a dewatering belt having zonally variable wire permeability*. Nor does this document appear to disclose using such a belt to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Again, Applicant notes that, for an anticipation rejection under 35 U.S.C. § 102 to be proper, each element of the claim in question must be disclosed in a single document, and if the document relied upon does not do so, then the rejection must be withdrawn.

Because this document fails to disclose at least the above-mentioned features as recited in at least amended independent claim 1, Applicant submits that this document fails to disclose all the claimed features recited in at least independent claim 1.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection and further request that the above-noted claim be indicated as being allowable.

Traversal of Rejections Under 35 U.S.C. § 103(a)

Applicant traverses the Examiner's rejection of claims 13-15 and 17-21 under 35 U.S.C. § 103(a) as being unpatentable over KAMPS in view of WO 94/28242 to ERIKSON.

Applicant also traverses the Examiner's rejection of claims 22-27, 29-47 and 68 under 35 U.S.C. § 103(a) as being unpatentable over KAMPS in view of ERIKSON and further in view of US patent 6,231,723 to KANITZ.

Applicant additionally traverses the Examiner's rejection of claim 69 under 35 U.S.C. § 103(a) as being unpatentable over KAMPS in view of ERIKSON and KANITZ, and further in view of DE 197 56 422 to TIETZ.

The Examiner asserted that KAMPS discloses all the claimed features except for a suction device having adjustable vacuum. However, the Examiner asserted that ERIKSON teaches this feature. Accordingly, the Examiner concluded that it would have been obvious to one of ordinary skill in the art to modify the device disclosed in KAMPS in view of ERIKSON.

Next, the Examiner asserted that KAMPS and ERIKSON disclose all the claimed features except for a conditioning device. However, the Examiner asserted that KANITZ teaches this feature. Accordingly, the Examiner concluded that it would have been obvious to one of ordinary skill in the art to modify the device disclosed in KAMPS in view of ERIKSON and KANITZ.

Finally, the Examiner asserted that KAMPS, ERIKSON and KANITZ disclose all the claimed features except for the shoe press nip. However, the Examiner asserted that TIETZ teaches this feature. Accordingly, the Examiner concluded that it would have been obvious to one of ordinary skill in the art to modify the device disclosed in KAMPS in view of ERIKSON, KANITZ and TIETZ.

Reconsideration of the above-noted rejections is respectfully requested. Again, Applicant refers the Examiner to the arguments presented in the Interview of January 23, 2003, wherein it was specifically pointed out to the Examiner that Fig. 5 of KAMPS teaches to locate the suction device 30 at a location far away from where the belts separate. In the Interview, it was specifically emphasized that claims 1 and 22 specifically recite that the at least one suction element is positioned at least one of *within the forming roll and adjacent the area of the separation point*, in combination with *the inner and outer belts separating from each other immediately following the forming roll*. In response, the Examiner acknowledged that the suction device 30 was clearly not positioned in forming roll 15. It was also specifically pointed out to the Examiner that KAMPS as modified by ERIKSON and KANITZ does not render the combination of features recited in independent claim 68 unpatentable and that it would not have been obvious to KAMPS in view of ERIKSON and KANITZ.

Thus, Applicant respectfully submits that no proper combination of these documents

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discloses or suggests, inter alia, a forming element comprising *a forming roll*, an inner dewatering belt, and an outer dewatering belt, *at least one of the inner and outer belts being a dewatering belt having zonally variable wire permeability*, the inner and outer belts *being guided by the forming roll* and thereafter separating from one another in the area of a separation point, and at least one suction element being positioned *at least one of within the forming roll and adjacent the area of the separation point*, wherein the inner and outer belts separate from each other *immediately following* the forming roll, as recited in amended independent claims 1 and 22, and inter alia, that each of the inner and outer belts is guided over the forming roll and *thereafter separating from one another in the area of a separation point located immediately following the forming roll* and at least one of *at least one suction element positioned inside the inner loop and adjacent the inner belt on a side which is opposite the outer belt* and a conditioning device positioned adjacent the outer belt so as to *clean the outer belt*, wherein at least one of the inner and the outer belts is *a dewatering wire having zonally variable wire permeability*, as recited in independent claim 68.

As discussed above, Fig. 5 of KAMPS shows an embodiment in which a suction device 30 is located far away from where the belts 12 and 13 separate, i.e., it is not positioned *adjacent the area of the separation point*. It is also clear that the suction device 30 is not arranged *within the forming roll 15*. It is also apparent that the suction device 30 in Fig. 5 of KAMPS is clearly located far downstream from both forming roll 15 and the separation

point. Moreover, while Applicant notes that Fig. 5 (and page 9, lines 27-35) of KAMPS apparently discloses the use of a decorative forming fabric 13 as an outer wire on a crescent former, it is clear that, unlike the invention, there is no disclosure or suggestion in KAMPS with regard to using *a dewatering belt having zonally variable wire permeability* in order to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Additionally, it is clear from Fig. 1 that ERIKSON teaches to separate the belts far away from the forming roll 1, i.e., after roll 6. It is also apparent that ERIKSON teaches to locate the suction device 23 at a location which is far away from the forming roll 1. Accordingly, it is clear that this document does not disclose or suggest the at least one suction element being *positioned at least one of within the forming roll and adjacent the area of the separation point*, wherein *the inner and outer belts separate from each other immediately following the forming roll*. Finally, Applicant notes that this document also appears to lack any disclosure with regard to *a dewatering belt having zonally variable wire permeability*. Nor does this document appear to disclose using such a belt to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Next, KANITZ similarly teaches to separate the belts far away from the forming roll 24, i.e., after pickup box 54. Accordingly, it is clear that this document does not disclose or suggest the at least one suction element being *positioned at least one of within the forming roll and adjacent the area of the separation point*, wherein *the inner and outer belts separate*

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from each other immediately following the forming roll. Finally, while Applicant acknowledges that col. 5, lines 13-15 discloses that one of the fabrics “may have a texture which imparts specialized functionality or appearance to the web”, Applicant notes that this document also appears to lack any disclosure with regard to *a dewatering belt having zonally variable wire permeability*. Nor does this document appear to disclose using such a belt to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Furthermore, Applicant submits that TIETZ similarly discloses to locate the suction device 6 at a location far away from where the belts separate. Accordingly, it is clear that this document does not disclose or suggest the at least one suction element being *positioned at least one of within the forming roll and adjacent the area of the separation point*, wherein *the inner and outer belts separate from each other immediately following the forming roll*. Finally, Applicant notes that this document also appears to lack any disclosure with regard to *a dewatering belt having zonally variable wire permeability*. Nor does this document appear to disclose using such a belt to ensure that the tissue web can be securely lifted from one of the wires via a suction device.

Thus, even if these documents were properly combined, which Applicant submits they cannot be, they would nevertheless lack features which are recited in at least independent claims 1, 22 and 68. Moreover, Applicant submits that each of these documents fails to disclose or suggest the requisite motivation or rationale for combining these documents in

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the manner asserted by the Examiner. Finally, Applicant submits that ERIKSON, KANITZ and TIETZ fail to cure the deficiencies in KAMPS, and vice versa.

Accordingly, Applicant submits that no proper combination of ERIKSON, KANITZ, TIETZ and KAMPS discloses or suggests the combination of features recited in at least independent claims 1, 22 and 68, much less, claims 13-15, 17-21, 24-27 and 29-47 and 69 which depend from claims 1, 22 and 68 and further recite: that the at least one suction element comprises a vacuum suction element and wherein the vacuum present inside the suction element is adjustable as recited in claim 13; that the at least one suction element is positioned in front of the separation point, in a web travel direction as recited in claim 14; that the at least one suction element causes the inner belt to separate from the outer belt as recited in claim 15; that the former further comprises at least one blowing element positioned adjacent the outer belt on a side which is opposite the inner belt as recited in claim 17; that the at least one blowing element is located in the area of the separation point as recited in claim 18; that the at least one blowing element is located in the area of the separation point and inside a loop of the outer belt as recited in claim 19; that the at least one blowing element is arranged at least essentially over an entire width of one of the outer belt and the tissue web as recited in claim 20; that the forming element comprises a suction zone having adjustable vacuum as recited in claim 21; that the at least one suction element is positioned adjacent the inner belt on a side which is opposite the outer belt as recited in claim 24; that the tissue web

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is separated from the outer belt in the area of the separation point as recited in claim 25; that the tissue web is retained by the inner wire after being separated from the outer belt as recited in claim 26; that at least one of the inner and outer belts comprises a circulating continuous dewatering belt as recited in claim 27; that each of the inner and outer belts is a circulating continuous dewatering wire having zonally variable wire permeability as recited in claim 29; that the inner belt contacts the forming element and the outer belt is guided with the inner belt around the forming element such that the outer belt does not come into contact with the forming element as recited in claim 30; that the forming element comprises the at least one suction element as recited in claim 31; that the forming element comprises a suction zone as recited in claim 32; that the at least one suction element is positioned adjacent the area of the separation point as recited in claim 33; that the at least one suction element is provided inside a loop of the inner belt as recited in claim 34; that the at least one suction element comprises a vacuum suction element and wherein the vacuum present inside the suction element is adjustable as recited in claim 35; that the at least one suction element is positioned in front of the separation point, in a web travel direction as recited in claim 36; that the at least one suction element causes the inner belt to separate from the outer belt as recited in claim 37; that the at least one suction element is arranged at least essentially over an entire width of one of the inner belt and the tissue web as recited in claim 38; that the former further comprises at least one blowing element positioned adjacent the outer belt on a side which is opposite

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the inner belt as recited in claim 39; that the at least one blowing element is located in the area of the separation point as recited in claim 40; that the at least one blowing element is located in the area of the separation point and inside a loop of the outer belt as recited in claim 41; that the at least one blowing element is arranged at least essentially over an entire width of one of the outer belt and the tissue web as recited in claim 42; that the forming element comprises a suction zone having adjustable vacuum as recited in claim 43; that the conditioning device comprises a wire cleaning device as recited in claim 44; that the conditioning device is arranged at least essentially over an entire width of one of the outer belt and the tissue web as recited in claim 45; that the inner belt is a felt belt as recited in claim 46; that the former is a crescent former as recited in claim 47; and that the former further comprises a press nip through which the tissue web and the inner belt is guided, the press nip being formed between a cylinder and shoe press roll, wherein the tissue web is removed from the inner belt after passing through the press nip as recited in claim 69.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the rejections of the above-noted claims under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

Traversal of the Examiner's comments

Regarding the Examiner's suggestion that the suction device 30 shown in Fig. 5 of KAMPS is positioned "adjacent" the forming roll based upon the fact that Applicant has not defined this term, Applicant may properly rely on this term's ordinary meaning and under such an ordinary meaning, it is entirely unreasonable to characterize the location of suction device 30 of KAMPS as being adjacent the forming roll 15. Moreover, the Examiner's arguments fails to consider the fact that independent claims 1 and 22 also require that the suction device be positioned either in the forming roll or immediately following it. Clearly, these features are entirely absent in Fig. 5 of KAMPS. Thus, the only reasonable interpretation of Fig. 5 of KAMPS is that the suction device 30 is located well after forming roll 15, because it is downstream a downstream guide roll and well downstream from where belts 12 and 13 separate from each other.

Regarding the Examiner's suggestion that the suction devices 85a and 85b shown in Fig. 5 of ODELL are positioned "adjacent" the forming roll based upon the fact that Applicant has not defined this term, Applicant again notes that he may properly rely on this term's ordinary meaning and under such an ordinary meaning, it is entirely unreasonable to characterize the location of suction devices 85a and 85b of ODELL as being adjacent the forming roll 22A. Moreover, the Examiner's arguments fail to consider the fact that independent claims 1 and 22 also require that the suction device be positioned either in

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the forming roll or immediately following it. Clearly, these features are entirely absent in Fig. 5 of ODELL. Thus, the only reasonable interpretation of Fig. 5 of ODELL is that the suction devices 85a and 85b are located well before where the belts 10 and 20 separate.

In addition to Applicant being able to rely on the ordinary definition of “adjacent”, Applicant further notes that Applicant’s Fig. 2 clearly provides one example of such a relative positioning. As is clearly shown there, the suction device 36 is positioned immediately following the forming roll 18 and adjacent the area where the belts separate from one another. On the other hand, the Examiner has failed to point to any disclosure in any document which reasonably discloses or suggests inner and outer belts that separate from each other *immediately following a forming roll* in combination with the recited location of the suction device.

Finally, Applicant directs the Examiner’s attention to the guidelines identified in M.P.E.P section 2141 which state that “[i]n determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification.” *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

As this section clearly indicates, “[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is

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some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).”

Moreover, it has been legally established that “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references).

Additionally, it has been held that “[a] statement that modifications of the prior art to meet the claimed invention would have been " well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).”

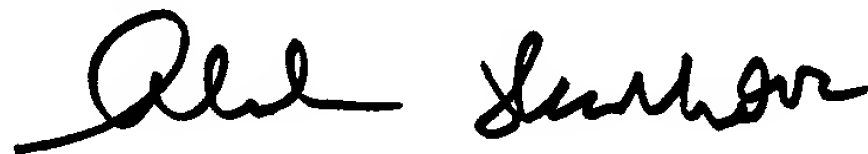
CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Commissioner is hereby authorized to charge any additional fee necessary to have this paper entered to Deposit Account No. 19-0089.

Respectfully submitted,
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June 4, 2003
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